

Update on Wisconsin Caregiver Legislation

Date: March 15, 2000 -- **DSL-BQA-00-024**

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From: Donna Cochems, Chief, Caregiver Regulation and Investigation Section

cc: Susan Schroeder, Director, Bureau of Quality Assurance

This memo contains important information on the following topics:

- New Emergency Rule (Ch. HFS 12, Wisconsin Administrative Code) effective October 29, 1999
- Upcoming fee increase for Caregiver Background Checks effective May 1, 2000
- Additional caregiver training sessions to be scheduled statewide
- Caregiver Background Check deadline on February 1, 2000
- Department requirement to conduct background checks on entity owners and nonclient residents

Please share this memo with appropriate entity staff, e.g. human resources, trainers, caregivers, supervisors, etc.

New Emergency Rule (Ch. HFS 12, Wisconsin Administrative Code)

The 1999-2001 Biennial Budget Bill, enacted as 1999 Wisconsin Act 9 on October 29, 1999, made several changes to the Wisconsin Caregiver Law. As a result, the Department issued an emergency order modifying ch. HFS 12, Wis. Adm. Code that became effective on February 13, 2000, to reflect those changes. A [copy of the revised ch. HFS 12, Wis. Adm. Code](#), is attached for your reference. Also included is Appendix A to ch. HFS 12, which lists the crimes and other offenses that the Wisconsin State Legislature has determined either require rehabilitation review approval or that act to permanently bar a person (for foster care only) from employment. [Appendix A](#) is now titled "Offenses Affecting Caregiver Eligibility" and replaces the former "Crimes List" contained in previous versions of ch. HFS 12. The new rule may also be found on the Department's web site: www.dhfs.state.wi.us. Click on Background Checks.

[Ch. HFS 13, Wisconsin Administrative Code](#), was not affected by the Biennial Budget changes. Therefore, the permanent rule that went into effect on July 1, 1999 remains unchanged.

For a written summary of the changes reflected in Wisconsin Act 9, please refer to [BQA Memo 99-073](#), dated December 10, 1999.

Upcoming Fee Increase for Caregiver Background Checks

Effective May 1, 2000, the Department will charge \$2.50 for the integrated background information system query that is included in the caregiver background check. (This is the letter on Department letterhead that is sent to individuals/entities who submit a criminal history request to the Department of Justice. The letter includes information on the training and testing of nurse aides, findings of misconduct, licensure denials/revocations and information on professional credential holders.) The fee is allowed by Wisconsin Act 9, enacted in October 1999.

The increase will be reflected on the [Wisconsin Criminal History Request form \(DOJ-LE-250 and DJ-LE-250A\)](#). **The Department of Justice will return any criminal history requests that they receive beginning May 1, 2000 that do not include payment at the increased rate. Account holders will automatically be billed at the increased rate.**

Please access the [Department's web site](#) on or after April 17, 2000, to obtain updated copies of the Wisconsin Criminal History Request form.

More Caregiver Training Sessions to be Held

In October and November 1999, BQA, in cooperation with the Office of Legal Counsel, conducted ten caregiver training sessions statewide. The curriculum included caregiver background checks, the rehabilitation review process and entity reporting requirements of misconduct by caregivers. Over 1,000 representatives of BQA-regulated entities attended the sessions held in Milwaukee, Madison, Green Bay, Wausau and Eau Claire.

Due to the positive feedback received from participants and continued interest in this training, BQA is scheduling encore training sessions for the late spring or early summer of 2000. Please watch for upcoming training announcements that we will mail to your entity, as well as Internet announcements on the Department's web site.

February 1, 2000 Deadline For Conducting Caregiver Background Checks on Entity Employees and Contractors

Beginning October 1, 1998, the caregiver law required BQA-regulated facilities to complete caregiver background checks on all new employees and contractors hired after that date. The law also required that all BQA-regulated entities complete the caregiver background check process on existing employees and contractors (those hired before October 1998) by February 1, 2000. Between October 1998 and January 2000, over 400,000 caregiver criminal history requests have been submitted to the Department of Justice.

Effective February 1, 2000, entities that have failed to complete the required checks are subject to sanctions. For more information on the required caregiver background checks or to download forms, access the Department's web site.

Department Requirement to Conduct Caregiver Background Checks on Entity Owners and Non-Client Residents

Please keep in mind that the Department is required to complete caregiver background checks on entity owners, principal officers who have regular, direct contact with clients and nonclient residents of the entity. This process has been in place since October 1998 for new applicants for licensure. In the near future, BQA will begin conducting background checks for existing license holders (those licensed before October 1, 1998).

BQA will contact your entity with a request to submit Background Information Disclosure forms (HFS-64) on the individuals defined above. This procedure is very similar to the entity's requirement to conduct caregiver background checks on their employees and contractors. Because of the high number of BQA-regulated entities and different types of programs, this process will be completed over a period of time. Therefore, various entity types will not be contacted at the same time.

As always, please access the [Department's web site](#) for information on the caregiver law. You may also contact the [Caregiver Intake Unit](#) at (608) 261-7650